

Message

From: Kaiser, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10BF2440EDD749D2845015C7AB59FF4B-SKAISE02]
Sent: 9/20/2016 6:25:50 PM
To: Carla Morgan [cmorgan@eastchicago.com]; McCoy, Lisa [LMcCoy@idem.IN.gov]
Subject: USS Lead - Press

East Chicago press clips

US EPA Region 5 – prepared by the Office of Public Affairs

September 19, 2016

NWI Times - EPA to begin cleanup of soil in East Chicago before deal with firms**NWI Times - Lawsuit claims housing discrimination in East Chicago****AP - Residents of contaminated East Chicago, Ind. complex sue city officials****Post Tribune - Lawsuit claims discrimination in East Chicago, housing authority****Post Tribune - EPA: Elevated lead, arsenic levels found around residences****The Statehouse File - Commentary: It is raining in East Chicago***Note – neither American Lead (Indianapolis) nor Pilsen lead clips*

http://www.nwitimes.com/news/special-section/ec-lead/epa-to-begin-cleanup-of-soil-in-east-chicago-before/article_12ed841c-b798-5d78-968a-7c4e31cc7131.html

EPA to begin cleanup of soil in East Chicago before deal with firmsFrom the Times coverage of high lead levels at West Calumet series

- Sarah Reese sarah.reese@nwi.com, (219) 933-3351
-
- Updated 23 hrs ago

EAST CHICAGO — The EPA said Friday it will begin removing soil at a minimum of 20 properties in an area of the Calumet neighborhood where funding for a Superfund cleanup of lead and arsenic contamination had not previously been identified.

The U.S. Environmental Protection Agency said in a statement Friday it began testing properties in the area known as zone 2 this summer and has now taken soil samples from 136 of the 590 properties in that area. The federal agency said it will complete soil sampling this year and that 384 property owners had signed access agreements as of Friday. The EPA said it plans to continue cleaning up any remaining properties in 2017.

Many residents in zone 2 felt left out because a 2014 consent decree covered only zones 1 and 3. DuPont and Atlantic Richfield, successors to companies responsible for contamination in those areas, reached a \$26 million settlement with the federal government and state of Indiana. Department of

Justice and Indiana attorney general's officials previously said it has not yet been determined who will ultimately pay for a cleanup in zone 2. The EPA said Friday that negotiations with potentially responsible parties have not yet started, and it would be premature to predict when such negotiations might begin.

Debbie Chizewer, Montgomery Foundation environmental law fellow at the Northwestern University Pritzker School of Law's Environmental Law Clinic, said zone 2 residents were left out of the consent decree "without explanation or justification."

"The Superfund law allows EPA to clean up now and seek reimbursement later, particularly in cases like this when public health concerns demand a cleanup," she said.

The EPA said Friday it can begin cleanup work in zone 2 and recoup costs later.

Zone 2 is bounded by East Chicago Avenue to the north, 151st Street to the south, McCook Avenue to the west, and the Elgin & Joliet and Eastern Railway to the east and includes a segment just north of Carrie Gosch Elementary School and west of McCook. Zone 3 is bounded by East Chicago Avenue to the north, East 149th Place to the south, the E&J and Eastern Railway to the west and Parrish Avenue to the east.

Excavation, demolition planned

The EPA previously has said it plans to move forward with excavation work this fall at 19 properties in East Calumet, which is known as zone 3. The EPA targeted those properties for cleanup because they had the highest levels of lead among the 411 properties sampled in that zone. The EPA plans to excavate additional properties in the zone this year and next. There are a total of 463 properties in zone 3, according to the EPA.

The EPA has shelved plans for excavation this year in zone 1, which includes the West Calumet Housing Complex and Carrie Gosch Elementary School, since the city moved to demolish the 346-unit public housing complex. More than 1,000 people in the complex, including about 680 children, have been told by local and federal officials they must move. The complex was constructed in the footprint of a long-ago-demolished lead factory built in 1912 by International Smelting & Refining Co., a subsidiary of the Anaconda Copper Co. Lead levels as high as 91,100 parts per million, or 227 times the 400 ppm standard set by the EPA for cleanup of residential areas at the site, were found in the soil at the south end of the complex.

Arsenic is a carcinogen. Children and pregnant women are particularly at risk when exposed to lead. Lead exposure, even at low levels, can cause irreversible behavioral and intelligence problems, abdominal pain, weakness, and kidney and brain damage, according to the Centers for Disease Control. Pregnant women and other adults can experience stillbirth, miscarriage and infertility.

The EPA selected a remediation plan in 2012 for all three zones that calls for removal of up to 2 feet, placement of a protective barrier atop any remaining contaminated soils and replacement with clean soil. The agency previously removed soil at a limited number of properties across all three zones that tested above its standards during a remedial investigation conducted from 2008 to 2011. Residents in zones 2 and 3 will be allowed to remain in their homes during excavation this year, the EPA said.

Test results soon

Residents at properties where the EPA took samples in August 2016 will begin to learn about sampling results in early October, the agency said. The EPA began soil sampling at the south end of zone 2, because the area is "closest to the former USS Lead factory."

The former USS Lead facility was first proposed for the Superfund list in 1992, and its owner began a cleanup in 1993 under the EPA's Resource Conservation and Recovery Act program in 1993. Health studies in the 1990s raised concerns about the residential areas to the north of USS Lead, and the former USS Lead factory and the Calumet neighborhood were added to the Superfund's National Priorities List in April 2009.

Chizewer said Friday it's not surprising that the EPA has now found 20 more highly contaminated properties in zone 2.

"You cannot find contamination if you do not look for it," she said. "Between 2008-2011, EPA relied on its removal authority to clean 13 highly contaminated properties in the southern portion of zone 2. Yet, in the 2008-2011 time period, EPA did not use those findings to justify expanded testing in the southern portion of zone 2."

The EPA previously responded to similar questions about zone 1, even though it knew as early as 1997 of the former International lead factory at that site, by saying its goal during the remedial investigation was to get a broad picture of contamination across all three zones.

http://www.nwitimes.com/news/local/lake/lawsuit-claims-housing-discrimination-in-east-chicago/article_1cedf278-41d2-5ade-8d42-d3c75ed3fb2f.html

Lawsuit claims housing discrimination in East Chicago

- [Lauren Cross lauren.cross@nwi.com](mailto:lauren.cross@nwi.com), 219-933-3206

Lauren Leone-Cross

- Updated Sep 16, 2016 EAST CHICAGO — Families suddenly forced to leave the West Calumet Housing Complex have filed a lawsuit, saying, in part, city officials “knew or reasonably should have known” the site was contaminated following a century’s worth of industry there.

The federal lawsuit — filed Thursday in U.S. District Court in Hammond — argues residents should not be forced to leave the complex, which sits in the footprint of the long-ago-demolished Eagle Picher lead smelter.

Named in the lawsuit are the city of East Chicago and Mayor Anthony Copeland, BP, DuPont, Atlantic Richfield Co. and the East Chicago Housing Authority along with its executive director, Tia Cauley. Residents first learned this summer of high lead and arsenic levels in the soil when Copeland penned a letter informing them of the U.S. Environmental Protection Agency’s latest, and most extensive, round of sampling there.

Despite the city and housing authority maintaining the complex for decades, tenants, predominantly minorities, were “suddenly told that they must leave, and are now forced to move on an expedited scheduled,” as the city seeks to demolish the site.

Families are finding it difficult to find a new place, Hammond-based attorney Alex Mendoza argued in the court filing.

City Attorney Carla Morgan declined comment Friday.

The lawsuit alleges defendants' actions violate civil rights and the U.S. Fair Housing Act, noting tenants have experienced adverse conditions, different from those experienced by people living in predominantly White neighborhoods."

The lawsuit, which seeks class action status, also asks for unspecified monetary damages "on behalf of themselves and a putative class of similarly situated individuals," and a court order barring further action dispossessing families of their homes.

The EPA selected a cleanup plan for the entire Calumet neighborhood in 2012 and reached a \$26 million agreement with companies to clean up in two sections that are part of the USS Lead Superfund site. Now, the EPA is re-examining the 2012 remediation plan for portions of the site, and is waiting on the city, the East Chicago Housing Authority and HUD for input on future land use.

<http://abc7chicago.com/news/residents-of-contaminated-east-chicago-ind-complex-sue-city-officials/1514732/>

<http://wishtv.com/2016/09/16/residents-of-contaminated-indiana-complex-sue-city-officials/>

Residents of contaminated East Chicago, Ind. complex sue city officials

AP

Friday, September 16, 2016 03:34PM

EAST CHICAGO, Ind. —

Residents forced to move out of a northwest Indiana public housing complex because of high levels of lead in the soil are suing city officials and the companies they say are responsible.

The federal lawsuit was filed Thursday on behalf of three families living in the West Calumet Housing Complex in East Chicago.

Mayor Anthony Copeland ordered about 1,100 residents relocated this summer, saying new test results received from the Environmental Protection Agency showed alarmingly high levels of lead. Most of the contamination is from a smelter that closed in 1985.

The lawsuit says Copeland and other officials knew or should have known about the contamination sooner, and that residents are having trouble finding new housing.

City Attorney Carla Morgan said she couldn't comment on pending litigation but "the city wasn't keeping secrets."

<http://www.chicagotribune.com/news/ct-ptb-ec-class-action-st-0917-20160916-story.html>

Lawsuit claims discrimination in East Chicago, housing authority

Craig Lyons Chicago Tribune

A group of residents of the West Calumet Housing Complex filed a federal class action lawsuit that claims government officials should have known about contamination at the former U.S.S. Lead site, and plans to demolish the complex and relocate the tenants discriminates against the residents.

The suit, filed by Kendra Mabry and five minors; Angela Espinoza and five minors; and Roberto Cabello Jr., against the City of East Chicago, Mayor Anthony Copeland, the East Chicago Housing Authority, ECHA director Tia Cauley, BP Products of North America, El DuPont de Nemours and Company and the Atlantic Richfield Company, claims the defendants violated the Fair Housing Act.

The complaint claims the city and housing authority are discriminating against the residents because by demolishing the complex, the residents are being deprived of their rights to hold property, read the court filing, and caused the harmful conditions forcing them from their homes. The complaint adds those actions have a "disparate impact on Hispanic and African-American households."

"That's the real damage that we see," said attorney Alex Mendoza, who is representing the plaintiffs. The defendants allowed people to live in the area and did not inform them of the risk but all of a sudden decided to kick them out, Mendoza said.

The residents have to leave their homes and uproot their lives, Mendoza said. Between the cost of relocating, emotional distress and having to move out of their community, it's a challenge for the residents, he said.

East Chicago Corporation Counsel Carla Morgan said the city had no comment on the pending litigation and had not received formal notice of the lawsuit.

The lawsuit asks the court to grant an injunction to prevent the defendants from forcing residents from their homes, read the filings, as well as damages.

The class action suit is the second filed in federal court because of the lead contamination in East Chicago. Lashawnda Walker filed a complaint in August that claimed the city was negligent in not notifying residents of the West Calumet Housing Complex of the lead issues at the site that have adversely affect their health.

Given that the most recent filing is a class action lawsuit, it must pass the hurdle of getting the class of plaintiffs certified, said Robert Knowles, associate professor of law at Valparaiso University.

In order to certify a class, the plaintiffs must define the parameters of who is in the class and who is out, Knowles said. That could mean people who lived in a certain area, he said, or used a certain product.

The four legal standards need to a class are numerosity, commonality, typicality and adequacy of representation, Knowles said.

The first step is simply proving there is a large number of people affected by a certain issue, Knowles said, and if more than 40 people are listed as plaintiffs, that threshold has been crossed.

To prove commonality, Knowles said a class must satisfy common questions of law or class. If the factual aspects of the various cases are different, he said it could be more difficult to meet that standard.

Typicality and adequacy of representation are the final two standards, Knowles said. For typicality, a lead plaintiff must be identified who most broadly represents the members of the class, he said, and adequacy shows that attorneys are capable of representing the plaintiffs.

If a judge certifies the class, that type of lawsuit can have both benefits and drawbacks. "It's very efficient on the plaintiffs' side," Knowles said.

For a defendant in a class action suit, Knowles said that party is facing a concentration of people. "It's kind of like a Death Star aimed at the defendant," Knowles said.

A class action lawsuit changes a lot of defendants, Knowles said, and potentially could lead to higher judgments and faster time frames.

But a class action lawsuit has its risks as opposed to individual filings.

"You're taking a smaller risk of a devastating loss," Knowles said.

Also, the plaintiffs possibly could see smaller pieces of the total judgment because class actions suits require the remedy is dispersed in a uniform way.

With Thursday's filing being a class action, Mendoza said it's separate from the other lawsuit filed in federal court.

Knowles said that if cases have similar circumstances, a judge can combine them. Judges have discretion when it comes to joining cases together even if the lawsuits decide not to get class action status. He said if the cases are filed in the same court, a judge can decide how to most efficiently handle the suit.

"These cases could wind up getting consolidated anyway," Knowles said, even without a formal class action status.

If the cases remain individual, Knowles said they could be resolved quickly or slowly depending on the volume of evidence and the amount of time needed for discovery.

It's also possible that the first case heard by the court could do all the heavy lifting for subsequent filings, Knowles said.

If a judge applied a legal avenue used when multiple cases have many of the same facts, Knowles said the resolution on the first case would apply to any others that follow.

That has a flip side if the defense should prevail, it automatically would mean the subsequent plaintiffs won't succeed, Knowles said.

If a judge applies that logic to these cases, Knowles said that can have its pitfalls. The defense could decide to throw all its resources into the first case, knowing that can influence the ruling in subsequent cases, Knowles said.

With separate cases, Knowles said it is possible plaintiffs could see inconsistent judgments based on the differences in the cases.

"That's another problem class action is intended to avoid," Knowles said.

clyons@post-trib.com

Twitter @craigalyons

<http://www.chicagotribune.com/news/ct-ptb-ec-zone-two-st-0917-20160916-story.html>

EPA: Elevated lead, arsenic levels found around residences

Craig Lyons Chicago Tribune

The EPA announced Friday that high levels of lead and arsenic around a portion of properties on the former U.S.S. Lead site in East Chicago will require cleanup.

The EPA said preliminary soil testing results found at least 20 properties – of the 136 tested – that will need cleanup in Zone 2, which is the portion of the U.S.S. Lead site with boundaries at East Chicago Avenue to the north, East 151st Street to the south, East Huish Drive to the west and McCook Avenue to the east. The preliminary results included only 136 of the 590 properties in Zone 2.

Once the EPA verifies the preliminary samples, affected residents will be notified of the results and what steps the federal agency will take.

Work to start cleaning up those 20 properties could start this fall, according to the EPA. Sampling for the remaining residences will continue this fall.

The EPA began taking soil samples in Zone 2 during the summer to develop a plan for the cleanup of the site.

Zone 2 of the U.S.S. Lead site was not included in the 2014 consent decree, which the U.S. District Court for Northern Indiana approved, between the EPA, Department of Justice, State of Indiana, the Atlantic Richfield Co. and E.I. du Pont De Nemours regarding the cleanup of the U.S. Smelter and Lead Refinery site.

Zone 1, which includes the West Calumet Housing Complex and Carrie Gosch Elementary, runs from McCook Avenue to the Indiana Harbor Canal, with 151st Street on the south and 148th Street on the north. Zone 3 includes the land between East Huish Drive and Parrish Avenue, with Chicago Avenue on the north and 149th Place to the south.

Based on the agreement, the two companies would cover roughly \$26 million in cleanup costs, according to the EPA.

In August the EPA said that remediation work in Zone 3 will not require the relocation of any residents. The cleanup plan is still being finalized, according to the EPA, but work could begin in late September or early October.

The EPA has an open house set for 2-5 p.m. Saturday, Sept. 24, at Riley Park to talk with residents about cleanup plans for zones two and three.

clyons@post-trib.com

Twitter: @craigalyons

<http://thestatehousefile.com/commentary-raining-east-chicago/27615/>

Commentary: It is raining in East Chicago

September 16, 2016

By Michael Leppert

www.contrarianana.com

I was introduced to the legacy of the late Warren Bennis this week. The innovative scholar on leadership has written that leaders are people who do the right thing, and managers are people who do things right. Mayors, governors and presidents need to be good at both. And one problem with political campaigns is that voters often don't get to see how candidates will handle their shot at either.

Or do they?

Politicians get an opportunity to show voters what they are made of more often than some might think.

The ground contamination of lead and arsenic in East Chicago is a classic example of an issue that appears to be separating candidates. State government's passive response to it baffles me. I write about politics and government more than most, so being baffled is not uncommon for me these days. Here is a very quick summary of the crisis regarding a 400 acre area in the West Calumet part of East Chicago.

In 1906, the Delamar Copper Refinery Co. began construction of what became USS Lead in East Chicago. Between 1906 and 1985, the facilities there manufactured a variety of lead based products beginning with lead arsenate insecticide and ending with the recovery of lead from scrap metal and automotive batteries.

Beginning in 1959, other land uses emerged in the area beginning with the dedication of the original Carrie Gosch School. A new school building with the same name was completed adjacent to the original site in 1999. That elementary school will be closed this school year.

Between 1970 and 1973, the West Calumet Housing Complex was constructed. Currently the complex features 346 units, providing housing for as many as 1200 residents. Two thirds of the residents are children. In July of this year, the East Chicago Housing Authority advised the residents of their need to relocate due to the lead contamination in the ground in and around it.

The first signs of lead and arsenic contamination became public in 1985. There have been bankruptcies. There have been lawsuits over the liability for the cleanup. The area was added to the EPA's Superfund National Priorities List in 2009. The depth and scope of the contamination is overwhelming.

It appears that the ground throughout the area, two feet deep, needs to be removed and replaced. As if that wouldn't be a challenge in the middle of open rural space, it is complicated by the fact that this is now an urban area where families live and children go to school.

So why is this suddenly a crisis? Because people are sick. Because we now know that the contamination is the reason they are sick. Because modern science shows us that the land is not suitable for housing or schools until it is cleaned up. And because it can only be cleaned up by people who care about it. And when I say "people," I mean government people.

This is what we have known since July. The facts are not being debated.

The people of the city have been pleading for assistance for the last two months and it appears the federal government, through the EPA and HUD, have been slowly and methodically tending to their duty. There is no sense of urgency in their actions however, at least based on what I have read.

But where is the State of Indiana? Our state government has taken a pass on engaging in the most dense and most identifiable health and environmental crisis that has occurred here in modern time.

Not only have neither Gov. Mike Pence nor Lt. Gov. Eric Holcomb visited the area, but they have committed almost nothing in state resources to the crisis for assistance. How is that even possible?

Politicians are touting a "rainy day fund" of more than \$2 billion dollars as an example of fiscal discipline while out on the campaign trail this year. I have a newsflash for Gov. Pence and Lt. Gov. Holcomb:

It is raining in East Chicago.

This is a time for leaders and managers of which Prof. Bennis spoke. A true leader would simply decide that committing our resources to this crisis will be done, and it will be done right now. A true manager would receive that order, and not rest until the people of West Calumet, otherwise known as constituents, knew that what could be done was being done.

John Gregg visited the area last week and looked the people he wants to serve as their next governor in the eye. The people there likely have more faith in outcomes in January if he is elected.

Pence and Holcomb should have never let him steal this opportunity from them. But because they did, and because they also appear to be sticking to a shamefully apathetic approach to the matter, voters should respond accordingly.

On this golden opportunity to step up, neither of them have shown they can lead or manage. Or simply open an umbrella in the middle of a downpour.

Michael Leppert is a public and governmental affairs consultant in Indianapolis and writes his thoughts about politics, government and anything else that strikes him at Contrarian.com.

Sincerely,

Steven P. Kaiser
Office of Regional Counsel
United States Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604
(312) 353 - 3804